



Customer Guide to Sanctions The Facts

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Glossary

JSA	Jobseekers Allowance
ESA	Employment and Support Allowance
UC	Universal Credit
ESA work-related activity group	The ESA work-related activity group is for claimants who the DWP consider will be capable of work at some time in the future and who are capable of taking steps towards moving into work (work-related activities) immediately.
ESA Support Group	The ESA support group is for claimants who the DWP consider to have such severe health problems that there is no current prospect of their being able to undertake work or work-related activities.
NMW	National Minimum Wage
DM	Decision Maker
WFI	Work Focused Interview

This guide provides comprehensive information about the duration of sanctions and includes examples of the circumstances in which sanctions may be applied. The term “sanction” is used by the Department for Work and Pensions to mean that benefit payments will stop for a specific period.

This guide should be read in conjunction with “The Highland Council Survival Guide to Benefit Conditionality: Practical advice and tips to support Jobseekers on JSA and Universal credit” that provides some basic hints and tips about meeting the requirements of the Claimant Commitment.

Sanctions

Claimants who fail to comply with the requirements of their benefit claim are at risk of being sanctioned and having their benefit reduced. For many years, unemployed claimants have risked having their benefits reduced or withdrawn if they were considered to be responsible for losing their job (by leaving voluntarily or being sacked through their own misconduct) or for restricting their chances of finding work.

However, over recent years, a stricter regime has been introduced with additional groups (such as lone parents and ESA claimants) being at risk of sanctions and with tougher longer penalties especially for JSA claimants.

Types of JSA Sanctions

		First failure	Second failure	Third failure
Failure	Lower level sanction: Fixed period sanction for: <ul style="list-style-type: none"> Refusal/failure to attend an adviser interview; refusal/failure to participate in an employment programme or training scheme; refusal/failure to comply with a Jobseeker direction; refusal/failure to attend, or loses through misconduct a place on an employment programme or training scheme. 	4 weeks	13 weeks	13 weeks
	Intermediate level sanction Only applied following a period of disallowance for: <ul style="list-style-type: none"> not being available for work; not actively seeking work. 	4 weeks	13 weeks	13 weeks
	Higher level sanction Fixed period sanction for: <ul style="list-style-type: none"> leaving a job voluntarily without good reason; losing a job through misconduct; refusal/failure to apply for, or accept if offered a suitable job without good reason; refusal/failure to participate in mandatory work activity without good reason. 	13 weeks	26 weeks	156 weeks*

* When JSA is reclaimed, if the claimant has been in work for 6 months or more and not claiming any income replacement benefits, then any balance remaining on their 156 week sanction will be lifted. The six months does not have to be a consecutive period.

Since 26 October 2012, there have been three main types of sanction for JSA claimants. A sanction must be at the same level to escalate to the next penalty.

Higher level JSA sanction: A fixed sanction of 13 weeks is applied for a first 'sanctionable failure', 26 weeks for a further sanctionable failure (within 52 weeks, but not less than two weeks, of the first) and a fixed period of 156 weeks for the third sanctionable failure (within 52 weeks, but not less than two weeks, of the second failure).

Pre-claim failures: Where a failure, relating to leaving a job voluntarily or due to misconduct or neglecting to avail oneself of a reasonable opportunity of employment, occurred before the JSA claim was made, the failure is not taken into account for a subsequent failure and thus cannot escalate a sanction period for a later sanctionable failure.

The sanction period can be reduced if the failure took place before the date of claim with a gap between the failure and the new claim e.g. if a claimant is sanctioned for 13 weeks for leaving their job, the sanction will only last for 11 weeks after they claim.

If the claimant leaves a job voluntarily or due to misconduct or fails to accept or apply for a job that is temporary for a fixed period, the period of the sanction will be reduced accordingly. For example, if a claimant leaves a job six weeks before it is due to end, then waits 2 weeks before claiming JSA, they will be sanctioned for only four weeks.

Example 1:

On 07/12/12 Tracy is sacked for misconduct. She makes a claim to JSA on 10/12/12 and the decision maker (DM) imposes a 13 week sanction. **First sanction failure – 13 weeks.**

On 07/03/13 Tracy fails to apply for an advertised vacancy and the DM considers a sanction. The DM looks back at any previous sanctionable failures within 52 weeks and has to discount sanction one as it is a pre-claim failure so the second sanction is treated as if there are no previous sanctionable failures and a 13 week sanction is imposed. **Second sanctionable failure – 13 weeks.**

On 01/04/13 Tracy leaves JSA to start employment. She leaves this job on 28/06/13 and makes a new claim to JSA on 01/07/13. The DM considers she has no good reason for leaving the job and considers a sanction. The DM looks back at the previous sanctionable failure for escalation purposes and a 26 weeks sanction is imposed. **Third sanctionable failure – 26 weeks.**

On 18/9/13 Tracy fails to accept a job offered to her and the DM considers she can show no good reason. The DM looks back at previous sanctionable failures within 52 weeks and discounts the first and third sanctionable failures as they are pre-claim failures, so the current sanctionable does not escalate and is for a further 26 weeks. **Fourth sanctionable failure – 26 weeks.**

Intermediate level JSA sanctions: A claimant, who is not available for or actively seeking work (nor can be treated as available for or actively seeking work) will be sanctioned for a fixed period of 4 weeks for a first sanctionable failure and for 13 weeks for each subsequent failure within 52 weeks (but not less than two weeks) of the previous JSA award ending (because of a previous intermediate level failure).

The JSA claim will be terminated but if the claimant re-claims JSA before the end of the sanction period, the balance of the sanction will be applied to the new claim. For example, if a claimant is sanctioned for four weeks and reclaims within three weeks of their claim terminating they will be sanctioned on the new claim for one week.

If the claim has not been terminated but payment has been suspended while the doubt is investigated, the sanction would be applied from the date after the suspension as lifted (with the period when for which JSA was not paid being deducted from the JSA sanction period).

A decision maker has the discretion not to apply an intermediate level if they believe it to be inappropriate e.g. if the claimant was not available for work because they were pursuing activities which would increase their employment prospects or because of a domestic emergency.

Lower level JSA sanctions: The fixed period for lower level JSA sanctions will be four weeks for the first sanctionable failure and 13 weeks for subsequent lower level sanctions within 52 weeks (but not less than two weeks) of a previous lower level failure.

If the sanctionable failure also qualifies for a higher rate sanction, this will be imposed instead of the lower rate sanction.

Example 2:

A jobseekers direction is issued instructing Sam to apply for a vacancy advertised at the Jobcentre Plus office. Sam fails to apply and the decision maker (DM) determines that he has failed without good reason to apply for an advertised vacancy. He has also failed without good reason to carry out a jobseekers direction. It is Sam's first failure, As the failure attracts both a higher-level (failure to apply for a job) and a lower-level sanction (failure to undertake a jobseekers direction) it is the higher-level sanction that takes precedent and the DM imposes a **13 week sanction for a first higher-level failure.**

Where there are two separate failures at different levels, two sanctions would apply.

Example 3:

John fails without good reason to apply for a job vacancy and then also fails to attend his fortnightly job search review. Although both failures occur on the same day, they are separate failures and the decision maker (DM) would consider two sanctions; a higher-level sanction for the failure to apply for the job vacancy and a lower-level sanction for the failure to participate in his Jobcentre Plus interview.

John has no previous sanctionable failures **so a 13 week higher level sanction and a four week lower level sanction will apply**. These will run concurrently so if the sanctions start from the same date, John's JSA will be sanctioned for a total of 13 weeks, with the first four weeks also being covered by a lower level sanction.

Although John does not appear to have been penalised for the lower level failure, if he has another lower level failure within 52 weeks, this will be a second lower level failure and the second sanction period will escalate to 13 weeks.

General points on JSA sanction periods:

- Where the claimant ceases to claim JSA and then re-claims within the sanction period, the sanction resumes for the remainder of the period, with the time spent not claiming deducted from the sanction period.
- If the claimant becomes re-entitled to JSA after being in employment (including self-employment) for at least 26 weeks (either continuously or for more than one period totalling 26 weeks), the sanction will be lifted and not applied for the new award of JSA.
- The sanction period starts from the beginning of the benefit week, in which the failure occurred if JSA has not been paid since the date of the failure, or after the end of the benefit week in which the claimant was last paid.
- A sanction must be at the same level to escalate to the next penalty e.g. an earlier lower level sanction, followed by a higher level sanction, will not escalate the higher level sanction to 26 weeks).
- In joint JSA claimants, the failure must relate to the same claimant and not a failure by their partner.
- All JSA sanctions are for a fixed period and run concurrently.

Amount of benefit reduction:

For single claimants, or joint claim couples where both claimants have been sanctioned, the amount of the reduction is 100% of the JSA payable. For joint claim couples, where only one partner has a sanctionable failure, the reduction is the amount which leaves the equivalent single person rate payable to the other partner.

Claimants may be eligible for hardship payments during the sanction period. A hardship payment is a reduced amount of Jobseeker's Allowance which a claimant may be able to get if they have been refused Jobseeker's Allowance, or their benefit has been stopped, because of doubts about whether they are available for and actively seeking work. A claimant may also be able to get them if:

- they are waiting for the Jobcentre Plus office to decide whether they meet the job seeking conditions;
- they have been sanctioned;
- their JSA has been stopped for a fixed period following a benefit fraud offence.

For more information about hardship payments, and how to apply for them, a claimant should contact their local Jobcentre Plus office.

Example 4:

Sarah and Dave are receiving income based JSA at the couple rate of £112.55 per week. Sarah is sanctioned for 13 weeks for failing to apply for a job vacancy. Dave can continue to receive JSA, which will be reduced to the single person rate of £71.70 per week, for the 13 week sanction period.

ESA Work-focused interview sanctions

Other groups of claimants, who are not expected to be available for work, such as lone parents, entitled to Income Support, ESA claimants in the Work Related Activity group or partners of some benefit claimants, may be required to attend work-focused interviews and can be sanctioned if they fail to attend or to actively participate without good cause.

For ESA claimants, there is an indefinite sanction until the claimant complies and attends or agrees a date to attend an interview. There may also be a further fixed period sanction of:

- one week for the first sanctionable failure;
- two weeks for a second sanctionable failure within 52 weeks;
- four weeks for subsequent sanctionable failures within 52 weeks of a sanctionable failure, which has previously attracted a two or four week sanction.

If within one week of the failure, the claimant attends or agrees a date to attend an interview, ESA is only reduced for the appropriate fixed period. A sanction ceases to apply if the claimant is no longer required to take part in work-focused interviews e.g. if they move into the ESA Support Group.

For other benefits, a claimant is sanctioned for an indefinite period until they:

- comply; or
- are no longer required to take part in work-focused interviews; or
- show good cause within one month of the sanction decision.

ESA Work-Related Activity sanctions: ESA claimants in the Work-Related Activity group may be required to participate in activity (which is considered reasonable in their circumstances), designed to improve their prospects of obtaining or retaining employment and can include work trials, voluntary work or training courses.

Claimants should be given a written action plan, detailing what work-related activity they are required to undertake, this can be decided by a DWP adviser or by an approved provider of work related support. An ESA claimant can request reconsideration of their action plan but would not have a right of appeal, if the action plan is not changed.

Types of Universal Credit sanctions

If a claimant does not meet their work-related requirements, their Universal Credit can be reduced. The amount of the sanction and how long it lasts will depend on whether or not they have to look for work as part of their work-related requirements and the reason for the sanction. A sanction should not be imposed if the claimant can show 'good cause' for acting as they did.

If a claimant has to look for work as a condition of getting Universal Credit, they can be sanctioned if they do not do something that is set out in their claimant commitment. There are three levels of sanctions if a claimant is subject to work-related requirements:

		First failure	Second failure	Third failure
Failure	Low level sanction: Fixed period sanction for: <ul style="list-style-type: none"> they do not undertake any of their other work-related requirements, such as updating their CV; they do not report a change or circumstances, provide information or attend an interview relevant to their work-related requirements. 	Until they comply plus 7 days after that	Until they comply plus 14 days after that	Until they comply plus 28 days after that
	Medium level sanction <ul style="list-style-type: none"> they are not available to start work immediately; they are not doing enough to find work. 	28 days	91 days	91 days
	Higher level sanction Fixed period sanction for: <ul style="list-style-type: none"> they do not apply for a particular job; they do not take up a job offer; they do not take up a work placement; they give up a job or lose pay voluntarily or because of misconduct 	91 days	182 days	1,095 days

Even if a claimant does not have to look for work, they can still be sanctioned if they do not do something that is set out in their claimant commitment. There are two levels: low and lowest.

		First failure	Second failure	Third failure
Failure	<p>Lowest level sanction: If a claimant is expected to attend work-focused interviews (but has no other work-related requirements). They might be given a sanction if they:</p> <ul style="list-style-type: none"> do not attend or participate in a work-focused interview; do not report a change of circumstances relevant to their work-related requirements; do not attend an interview relevant to their work-related requirements. 	Until they comply	Until they comply	Until they comply
	<p>Low level sanction If a claimant is expected to prepare for work, they may receive a sanction if they:</p> <ul style="list-style-type: none"> do not take up a work placement they are told to do; do not undertake any of the that they are required to do to prepare for work; do not take part in an interview to discuss their work-related requirements; do not report a change in their circumstances that affects their work-related requirements. 	Until they comply plus 7 days after that	Until they comply plus 14 days after that	Until they comply plus 28 days after that

As the length of a sanction is a particular number of days, the amount of the sanction is also worked out on a daily basis. The amount will depend on whether the claimant is single or part of a couple and whether they are over or under 25. For each day in the sanction, an applicable amount is deducted from their Universal Credit award.

Usually, the amount of the sanction is the same as the amount of the standard allowance that is used to calculate the claimants Universal Credit if you are single, and half the standard allowance if they are claiming jointly as a couple.

Effect of a JSA Sanction on Housing Benefit and Council Tax Reduction

When a claimant receives a sanction to their Jobseekers Allowance, the actual benefit is not paid for a specific period. However, their entitlement to JSA will continue provided they are meeting the conditions of their Claimant Commitment or Jobseekers Agreement.

Therefore claimants who are receiving passported Housing Benefit or Council Tax Reduction will continue to do so without interruption when a sanction is applied.

Effect of a Universal Credit Sanction on housing costs and Council Tax Reduction

When a claimant receives a sanction to their Universal Credit, their Universal Credit can be reduced from the overall award and not any specific element of that award. However, the amount of the sanction itself can never be more than the amount of the claimant's personal allowance element (or 50% of the personal allowance if a couple).

The sanction may be less than the claimants personal allowance, depending upon the specific circumstances of the claim, but never greater than the personal allowance if there are no earnings (or other deductions) to take into consideration from the claimants award of UC (where the award consists of personal allowance and housing costs).

Claimants will continue to receive the 'balance' of their Universal Credit without interruption when a sanction is applied.

Important

It is a claimant's responsibility to notify The Highland Council of all changes to their circumstances where they are in receipt of either Housing Benefit or Council Tax Reduction.

If a claimant has a sanction applied to their benefit then a change to the claimant's circumstances has taken place. Therefore, the claimant **must** notify The Highland Council of this change. Failure to do so may result in the claimants Housing Benefit or Council Tax Reduction claim being affected.

A claimant must tell The Highland Council about any changes **in writing** giving details of the change and the date of the change. They must also try to send any proof of the change e.g. the DWP letter notifying the claimant of their sanction.

To report your changes please contact The Highland Council Operations Team:

- visit a designated office at any Highland Council Service Point; or
- by post at PO Box 5650, Inverness, IV3 5YX

Universal Credit Hardship payments

If the amount of Universal Credit a claimant receives is reduced because of a sanction, they may be able to get a 'hardship payment'. These are loans and are usually recovered from their Universal Credit.

To get a hardship payment of Universal Credit, a claimant must be unable to meet their immediate 'essential needs' for themselves, their partner and their children as a result of being sanctioned. Essential needs include accommodation, heating, food and hygiene.

Before a claimant can receive a hardship payment, they may need to show that they have tried other sources of support to meet their essential needs. To get hardship payments, a claimant must make an application and provide any required information as well as continuing to meet their work-related requirements.

Hardship payments are paid at 60% of the amount by which a claimant's Universal Credit has been reduced. Normally a hardship payment is paid until the claimant's next Universal Credit payment is due. A claimant will need to apply again the following month i.e. for each new monthly assessment period.

Other examples of how the sanction regime under Universal Credit is stricter include:

- Both partners in a couple claiming Universal Credit will be subject to a claimant commitment, although whether they each need to be available and seeking work and the level of expected job seeking activity and work-related activity will depend on their circumstances.
- Claimants are exempt from work-related activity requirements (and thus from being sanctioned) if they earn over their 'earnings threshold' amount (a claimant's earnings threshold is based on the national minimum wage (NMW) multiplied by the number of hours they are expected to work. E.g. the weekly earnings for a claimant expected to work 35 hours per week, would be 35 x NMW). However, claimants earning under their threshold may still be expected to seek additional or better paid work, even for example if they were already working for 34 hours per week at the NMW.
- Any hardship payments awarded will be repayable unless the claimant finds work and has earnings above their threshold amount. The amount of the sanction reduction will normally be 100% of the Universal Credit single person standard allowance.

The information contained in this guide is not exhaustive and is for information purposes only and may not apply to your situation. The Highland Council believes the content is correct at the time of print however, details are subject to change.

The examples included in this guide are not intended to represent or guarantee that everyone will achieve the same results. Your own individual circumstances will determine any benefit entitlement or sanction including applicable rates.

If you are unsure about your entitlements, or any information contained in this guide, you should seek advice and support from a professional agency such as The Highland Council or your local Citizens Advice Bureau. The Highland Council will not be held responsible for any information in this guide which may be out of date or incorrect.

Reconsiderations and Appeals

If a claimant has been sanctioned, they can ask for a reconsideration of the decision. The claimant can dispute both the application of the sanction and its length. The claimant must ask for reconsideration within one month of the date of decision unless they have good cause for lateness. Once the claimant receives a new decision, if they are still not happy with it they have one month from the date of the new decision in which to appeal against it. The claimant's appeal will be heard by an independent tribunal.

A claimant may have 'good reason' for failure to meet the work-related requirement. Factors that should be taken into account when deciding if they have good reason for failing to undertake an activity.

Jobseekers Allowance (Decisions made on or after 28 October 2013)

The claimant must:

1. Phone or write to Department for Work and Pensions (DWP) to ask them to explain the decision.
2. Ask for the decision to be looked at again – this is known as a 'mandatory reconsideration'.
3. Appeal the decision if they are unhappy with the mandatory reconsideration.

Ask for the decision to be explained

A claimant must tell DWP why they disagree with the decision. The telephone number and address will be on their decision letter. A claimant can ask for a 'written statement of reasons' to explain the decision if they are not happy with the explanation during the phone call or they can ask for the decision to be looked at again.

The claimant will get a written statement of reasons explaining the decision if they wrote to them. The claimant can ask for the decision to be looked at again if they are still unhappy with it.

Ask for the decision to be looked at again

A claimant can ask for the decision to be looked at again if they think DWP didn't have all the facts or got something wrong. This is known as a 'mandatory reconsideration'.

The telephone number and address will be on their decision letter, or they can go to their local Jobcentre Plus office. A claimant should explain why they think the decision is wrong and show any evidence you have to support this.

What happens next?

DWP will write to the claimant to tell them they've made a new decision or the decision has not been changed. They'll send you 2 copies of the 'mandatory reconsideration notice' which explains the reasons for changing or not changing the

decision. DWP will telephone the claimant if they're not going to change the decision or going to change only part of it.

Appeal the decision

The claimant can appeal to the Social Security and Child Support Tribunal if they are still unhappy. The claimant should complete form SSCS1 and send the form and 1 copy of their mandatory reconsideration notice to the address on the form within 1 month of receiving their mandatory reconsideration notice.

The Social Security and Child Support Tribunal will let the claimant know if they can deal with their case. If they can't, they'll explain why. The tribunal is independent and can change the decision if they think it's wrong.

Late appeals

A claimant can appeal up to 13 months after the date of the original decision if they were, for example ill or in hospital, coping with bereavement or unable to send your appeal form, e.g. because of a postal strike. The claimant will need to explain why the appeal is late.

Universal Credit

A claimant can appeal a Universal Credit decision by first contacting the Department for Work and Pensions (DWP) and then appealing to a tribunal if they are still not happy with the response.

Before requesting an appeal

Before a claimant can appeal to the tribunal, they need to ask the DWP to look at the decision again. This is called 'mandatory reconsideration'. Mandatory reconsideration gives the claimant a chance to let DWP know if anything's changed, and gives DWP the chance to explain or change their decision.

A claimant can contact DWP by telephone or in writing, and make it clear why they are asking for mandatory reconsideration. The telephone number and address will be on their decision letter. The claimant will receive a 'mandatory reconsideration notice' as a response. A claimant should contact DWP within 1 month of the decision if they think DWP have overlooked something or if their situation has changed.

How to appeal

A claimant can appeal their decision if they are still unhappy with DWP's response in the mandatory reconsideration notice. A claimant will need to include their mandatory reconsideration notice with the application. The claimant should complete form SSCS1 and send it to the address on the form.

SSCS1 form

A copy SSCS1 form can be downloaded from:

<https://www.gov.uk/appeal-benefit/decisions-made-on-after-28-october-2013>

Help and support

Highland Council Employability Service

The Highland Council Employability Service offers a one to one support for people who face additional barriers into employability, training, volunteering and accessing services to suit their individual needs. These specialist advisers are available Highland wide in your local area. Please telephone 01463 702912 or email: employability@highland.gov.uk for further information.

Work Clubs

The Highland Council with partners run Workclubs. They are specifically targeted at the heart of the community. They offer support in looking and gaining a job in conjunction with benefit queries and on line IT support. Please telephone 01463 702912 or email: employability@highland.gov.uk for further information about Work Clubs in your area.

Highland Council Customer Income Maximisation Team

- ✓ Advise about all the benefits and other entitlements that are available
- ✓ Undertake benefit checks to ensure all entitled benefits are been claimed
- ✓ Provide assistance to complete relevant forms
- ✓ Offer advice and support to appeal against a decision when an application for benefit is turned down

Tel: 0800 090 1004

Highland Council Money Advice Team

- ✓ Work with Customer Income Maximisation to check customer receiving all entitled income
- ✓ Advise on what creditors can and can't do
- ✓ Discuss available options to help deal with debt
- ✓ Contact and negotiate with creditors.
- ✓ Provide advice and when appropriate, representation, where creditors are taking court action

Tel: 0800 090 1004

Citizens Advice Bureaux

Caithness
Tel: 01847 894243

Skye & Lochalsh
Tel: 01478 612032

Lochaber
Tel: 01397 705311

Nairn
Tel: 01667 456677

Ross & Cromarty
Tel: 01349 883333

North West Sutherland
[Tel: 01971 521730](tel:01971521730)

East Sutherland
Tel: 01408 633000

Inverness, Badenoch & Strathspey
Tel: 08444 994111

If you're on benefits or a low income and struggling to cope, help could be available from the Scottish Welfare Fund



Crisis Grants can provide people with a safety net in the event of a disaster or emergency.

Community Care Grants can help people who need essential household items such as a cooker or a washing machine.

Apply without delay at: www.highland.gov.uk/welfare-fund

Or Telephone: **0800 083 1887**